

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 22292-010100																	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____  Signature _____  Typed or printed name _____	Application Number  09/474,317	Filed  December 29, 1999																	
	First Named Inventor  Gregg Homer																		
	Art Unit  2145	Examiner  Adnan M. Mirza																	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%;"><tr><td style="width: 50%; vertical-align: top;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; text-align: center;">/Melvin D. Chan/</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="text-align: center;">Signature</td></tr><tr><td style="vertical-align: top;"><input checked="" type="checkbox"/> attorney or agent of record.      39,626 Registration number _____</td><td style="text-align: center;">Melvin D. Chan</td></tr><tr><td></td><td style="text-align: center;">Typed or printed name</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="text-align: center;">408-701-0035</td></tr><tr><td></td><td style="text-align: center;">Telephone number</td></tr><tr><td></td><td style="text-align: center;">September 8, 2008</td></tr><tr><td></td><td style="text-align: center;">Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	/Melvin D. Chan/	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Signature	<input checked="" type="checkbox"/> attorney or agent of record.      39,626 Registration number _____	Melvin D. Chan		Typed or printed name	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	408-701-0035		Telephone number		September 8, 2008		Date
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	Date																		
<input type="checkbox"/> *Total of _____ forms are submitted.																			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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## United States Patent and Trademark Office

Application No.: 09/474,317  
Confirmation No.: 2106  
Customer No.: 51111  
Docket No.: 22292-010100

Commissioner for Patents  
POB 1450  
Alexandria, VA 22313-1450

### Reasons for Pre–Appeal Brief Review Request

Dear Commissioner:

Applicant requests a pre–appeal brief conference review because the rejections of record are clearly based on legal and factual error.

#### Section 112 Rejection

The examiner’s section 112, first paragraph rejection to claim 1, 7, 10, 11, 14, 20, 22, and 27 is improper. Support for these claims is found in the specification at, among other places, figure 5, reference numbers 535, 550, 540, and 545; at page 21, lines 8–16; page 23, lines 25–29; and page 24, lines 1–6.

Therefore, the section 112, first paragraph rejection should be withdrawn.

#### Section 103 Rejection

##### *Argument 1: No Preventing of Recording of Data for Selected Traffic*

In the invention, as recited in claim 1, “when the specific identifying indicia is *determined to not be present, preventing recording* of the Internet Protocol header source address for each of the packets of the file.”

The combination of Trcka and Kuzma do not show or suggest this feature of the invention. Rather, the combination provides for quite the opposite: Trcka archives *all* data-link-layer traffic. Trcka does not discuss selective archiving at all. Kuzma does no archiving of traffic whatsoever.

Therefore, combining these references does not result in the case that when the specific identifying indicia is determined to not be present, preventing recording the Internet Protocol header source address for each of the packets of the file.

For at least this reason, claim 1 should be allowable. Claims 2–6 and 28–30 are dependent on claim 1 and should be allowable for at least similar reasons. Additionally, these dependent claims recite additional limitations which further distinguish the invention over the prior art.

***Argument 2: When Identifying Indicia is Found, Transmitting Packets Unaltered***

In the invention, as recited in claim 1, “when the *specific identifying indicia is determined to be present, sending the received packets unaltered* to a next Internet leg in a transmission path of the file.”

The combination of Trcka and Kuzma do not show or suggest this feature of the invention. As already stated above, the combination provides for quite the opposite: Trcka does not examine or determine whether any specific identifying indicia is present. Kuzma receives an e-mail and determines whether there is an attachment; if so, Kuzma removes the attachment and adds a URL link before sending the e-mail to the intended recipient. Kuzma does not transmit the same e-mail message that was received. Kuzma alters the e-mail.

Therefore, combining these references does not result in the case that when the specific identifying indicia is determined to be present, sending the received packets *unaltered* to a next Internet leg in the transmission path of the file.

For at least this additional reason, claim 1 should be allowable. Claims 2–6 and 28–30 are dependent on claim 1 and should be allowable for at least similar reasons. Additionally, these dependent claims recite additional limitations which further distinguish the invention over the prior art.

As discussed in the May 29, 2007 response, the present invention provides further benefits and features not found in the prior art. With the invention, by tracking where digital files were sent (or received), authors can determine whom to contact in order to secure compensation for use of their works (which are embodied in the digital files). Therefore, this invention will help protect the intellectual property rights of authors including artists, musicians, and other creative professionals. For example, by being able to track where their works were sent or

received, authors (such as a songwriter or music artist) may be able to seek royalties for unauthorized playing, exhibition or distribution of their works.

**Claims 7–27**

Claims 7–27 should also be allowable over the prior art for at least similar reasons as discussed above.

Therefore, all claims should be allowable.

Respectfully submitted,

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